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Cannabis Legislation and Control Bill

For decision:

For noting:

Ngā tūtohunga / Recommendations

That the committee:

1. **Note:** Auckland Transport (AT) will need to further consider the impact of legalised recreational cannabis. There will be time for the implementation of responsive measures after the result of the referendum is known.
2. **Note:** AT is currently undertaking a review of the current Drug and Alcohol Policy which shall include preparatory work to manage the risk of legal recreational cannabis use.
3. **Note:** When developing *Vision Zero for Tāmaki Makaurau Transport Safety Strategy* drug use and its effects on Transport Safety was considered when setting targets, performance indicators and actions

Te whakarāpopototanga matua / Executive summary

1. The Government released a first draft of the Cannabis Legalisation and Control Bill (the Bill) for public consideration in December 2019, with a proposed referendum on the matter to align with the 2020 general election.
2. The Bill, if put into law will mean the use of cannabis will become legal for adults and will be regulated. Some examples of the contents of the Bill are¹:
 - Cannabis will only be available to adults aged 20 years or older; It will not be sold to teenagers.
 - Only specialist stores licenced by the government will be able to sell cannabis.
 - The tax collected from the sale of cannabis will be specifically put towards health and education programmes for all New Zealanders.

¹ Cannabis referendum page here: https://www.referendums.govt.nz/cannabis/index.html?gclid=CjwKCAjw5lj2BRBdEiwA0Frc9f2hlRsO5yBipohfDx7bnmEdlH5GWc5BslcOF0cZHD9asp7-XYG_CRoCBP4QAvD_BwE

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- The potency of cannabis will be limited.
 - Cannabis use will be allowed in private homes and specifically licensed premises; it cannot be used in public.
3. Impairment from cannabis use is an existing safety issue for AT, both as an employer and as a network operator, who along with NZ Police and other partners is responsible for transport safety.
 4. There is a large body of international research on the impacts of drugs on driving ability. Cannabis, however, is not the most prevalent or significant drug involved in road deaths and serious injuries. Drug prevalence for people killed in road crashes is highest for alcohol, methamphetamine and prescription drugs.
 5. AT will need to ensure that it has a robust Drug and Alcohol Policy that covers cannabis use under the new legislative framework. The policy will likely manage cannabis as an impairment risk with a zero-tolerance approach to safety sensitive roles. AT is undertaking a review of the current Drug and Alcohol Policy which shall include preparatory work to manage the possibility of legal recreational cannabis use by our employees and in the supply chain.

Ngā tuhinga ō mua / Previous deliberations

6. There are no previous deliberations related to this subject.

Te horopaki me te tīaroaro rautaki / Context and strategic alignment

Background

7. After the 2017 general election, the confidence and supply agreement between the Labour Party and the Green Party included an obligation for the Government to undertake a referendum on cannabis law reform.
8. The Government released a first draft of the Cannabis Legalisation and Control Bill for public consideration in December 2019, with a proposed referendum on the matter to align with the 2020 general election². The referendum date is currently the 19th September 2020 and it would be expected that if a yes result is returned then the supporting legislation would not be enacted for at least 6 months from the date of the referendum.

² <https://www.referendum.govt.nz/Cannabis/index.html>

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9. The draft bill outlines a regulatory model that will be a government-controlled regulated market covering the production, supply and use of recreational cannabis. Medicinal cannabis already has laws managing its use and is not included in the proposed upcoming referendum.

Context/Strategic Alignment

10. Impairment from cannabis use is an existing safety issue for AT, both as an employer and as a network operator, who along with NZ Police and other partners is responsible for transport safety. However, it is not the most prevalent drug involved in road deaths and serious injuries.
11. Below is a table of drug-related road deaths and serious injuries (DSI) for Auckland roads from 2015 to 2019, compared with alcohol-related DSI for the same time period, and All DSI. It highlights that drug related DSI currently makes up only 2% of all DSI, although it is showing an upward trend over five years. The number of drug related DSI involving cannabis use is unknown but based on national trends it is likely to be a small component because methamphetamine and prescription drugs are more prevalent. The cannabis component may increase if cannabis is legalised but is unlikely to make up all Drug-related DSI.
12. The more significant Driver Impairment challenge is Alcohol-related DSI, which makes up 18% of All DSI.

Auckland Theme	DSI 2015	DSI 2016	DSI 2017	DSI 2018	DSI 2019	2015/19 Total DSI	2015/19 DSI as a % of All DSI	Five year DSI trend
Drug-related DSI	5	15	30	7	16	73	2%	Up
Alcohol-related DSI	108	101	188	84	113	594	18%	Static
All DSI	621	674	832	649	607	3,383	100%	Up

13. AT's current Drug and Alcohol Policy and procedures manages the risk prescription/illicit drugs, and alcohol pose to the workplace and provides testing for drugs, including cannabis in pre employment checks, after incidents and/or with reasonable cause. AT does not currently hold random drug testing for its staff and direct contractors.

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14. When developing *Vision Zero for Tāmaki Makaurau Transport Safety Strategy* drug use and its effects on Transport Safety was considered when setting targets, performance indicators and actions. Enhanced enforcement of drug-free driving is a key action in the 2018/21 Vision Zero for Tamaki Makaurau Transport Safety Action Plan under the focus area of Central Government Partnership: Influencing national decisions that impact regional safety. The AT Board publicly submitted in August 2019, as part of the Government Road to Zero Road Safety Strategy, for enhanced drug driver detection (including cannabis) such as saliva testing, as well as improved hospital drug and alcohol data collection from casualties/patients to help inform prevention policies.
15. The Government Road to Zero Road Safety Strategy to 2030³ acknowledges drug use as a significant contributing factor to deaths on our roads, especially when combined with alcohol. It also acknowledges that existing drug-related enforcement is infrequent and time-consuming. As a result, only 26% of drivers think they are likely to be caught drug driving. Concerningly, almost 65% of drivers are unaware that it is illegal to drive while impaired by prescribed medication. The Governments Road to Zero Action Plan 2020/22 will roll out enhanced roadside drug testing in early 2021 and will monitor the percentage of drivers impaired by drugs and the number off road deaths and serious injuries involving drugs. Implementation of these measures will be led by the NZ Police with support from NZTA and the Ministry of Health. This will enable drug testing to come into effect before any legislative changes that may result from the cannabis referendum. The NZ Police Enhanced Drug Driver Testing is planned for implementation in 2021 prior to any decisions resulting from a cannabis referendum.
16. In 2021/2022, the Government expects to see a significant decrease in the reporting of deaths and serious injuries where drugs are identified as a factor in a crash. It is expected that improved data collection and blood sample analysis in 2020 and 2021 will enable reduction targets to be established for 2021/2022.
17. The current AT Supplier Code of Conduct⁴ and the existing Regional Partnering Agreements⁵ state that AT suppliers must have *policies, procedures and practices in place that manage the risks of worker impairment from drug or alcohol use and establish a zero tolerance drugs and alcohol policy* respectively.

³ <https://www.transport.govt.nz/multi-modal/keystrategiesandplans/road-safety-strategy/drug-driving/>

⁴ Principle 2: Healthy, safety and Security 2.2

⁵ Schedule 7b S12.2(c)

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Ngā matapakinga me ngā tātaritanga / Discussion and analysis

18. **Premise of discussion** - Due to the legislative information regarding the cannabis referendum i.e. legal use limits, police testing regime (the proposed approach for roadside testing is outlined above), not being available at this time, there is little in the way of specific actions to be taken prior to the results of the vote being made publicly available. As such this section of the paper will ask three questions regarding AT's actions if a 'yes' vote was successful in the referendum.
19. **Internally** – What will AT need to do to address legal recreational cannabis use with regards to its employees.
20. AT will need to ensure that it has a robust Drug and Alcohol Policy that covers cannabis use under the new legislative framework.
21. AT's Drug and Alcohol Policy is currently in review and will be updated to support the approved Bill and any supporting legislative frameworks. AT will seek expert advice from the NZ Drug Foundation. As a tier 1 policy extensive consultation in line with operational policy will be conducted. A paper on the development of the Drug and Alcohol policy will be presented to the ELT in August.
22. AT identifies drugs in an individual's system via a urine test⁶ in pre-employment checks, after incidents and/or with reasonable cause. AT does not currently hold random drug testing for its staff and direct contractors. Any positive levels found is a point for discussion and action by AT.
23. Urine testing detects the presence of the THC-COOH in cannabis, the non-psychoactive metabolite of THC that remains after use, but not impairment. Currently there is a cut-off measured at 50ng/ml. Drug screens use cut-off concentrations to distinguish between negative and positive samples. A negative result on a screening test does not necessarily mean that the drug is not present in the sample, only that it is less than the cut-off concentration established. For example, if a sample screens negative for cannabis, there may be THC present in the sample, but the concentration could be less than the laboratory's cut-off, eg, 50 ng/ml. It is important to note cannabis can be detected in an individual's system (via urine testing) for over 5 days after consumption whereas alcohol normally leaves an individual's system within 24 hours and is effectively measured by a breath test⁷.

⁶ In line with AS/NZS 4308:2008 *Procedures for specimen collection and the detection and quantitation of drugs of abuse in urine* and via a certified third party.

⁷ AS3547:1997/Amendment 1-2000 (Type 2) "Breath Alcohol Testing devices for Personal use"

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24. Research from the NZ Police and MoT⁸ suggest the presence of cannabis in an individual's system is not an effective test for impairment, but best established through eye, walk and turn, and one-leg-stand assessments. Under a Drug and Alcohol policy where recreational cannabis use is legal, AT will need to develop a procedure to identify and test for impairment, which would allow AT to make informed judgements upon a person's ability to work and provide robust evidence if disciplinary actions were needed to be taken. To achieve this AT will need to seek expert advice from organisations such as NZ Police, Ministry for Transport and NZ Drug Foundation.
25. Research from Canada⁹ has shown that about half of their workplaces allow cannabis consumption within the legislated guidelines with the other half having either a zero-tolerance approach to cannabis use or with significant restrictions, especially those who have safety sensitive roles. A key difference between the Canadian experience and New Zealand is that Canada allows, in the most part, the consumption of cannabis in a public space whereas New Zealand proposed legislation¹⁰ does not. This difference will allow AT to effectively manage cannabis use at work using the same principles and mechanisms as alcohol use under the existing drug and alcohol policy i.e. not use whilst at work due to the impairment risk. Additional controls on safety sensitive roles will have to be considered and advice sort.
26. As such and based on the Canadian experience it can be assumed AT will likely manage cannabis as an impairment risk with a zero-tolerance policy for active cannabis use at work and associated impairment from previous use.
27. It is worth noting medical cannabis is managed under the current AT Drug and Alcohol policy¹¹. Though not mentioned by name the procedure for managing prescription medication covers medical cannabis by default¹²
28. **Externally** – How will recreational legal recreational cannabis use effect existing safe transport initiatives and community engagements.
29. AT has responsibilities towards transport safety that are currently laid out in its *Vision Zero for Tāmaki Makaurau Transport Safety Strategy*, with targets, performance indicators and actions for reducing serious injuries and fatalities on the network.

⁸ Discussion Document Enhanced Drug Impaired Driver Testing May 2019

⁹ Workplace Strategies: Risk of Impairment from Cannabis - *Canadian Centre for Occupational Health and Safety*

¹⁰ Cannabis Legislation and Control Bill Section 37

¹¹ Section 3.3 Prescription Medication

¹² HS12-01 Drug and Alcohol Monitoring – Section 3.3

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30. There is a large body of research both internationally and locally on the impacts of drugs on driving ability¹³. Overall, international studies show that many drugs can slow reaction time, increase risk taking and cause fatigue. When combined with alcohol or other drugs, the negative effects can be even larger. Methamphetamine has been found have the largest negative impact when used before driving and is the drug found with an increasing rate of prevalence compared to other drugs in fatal crash victims
31. While research shows that drugs have the potential to impair driving, it cannot be said with certainty what degree of impairment is caused by levels of a particular drug. In contrast to alcohol, there is not a clear linear relationship between dosages of drugs, when they are taken, and impairment
32. However, a number of case-control studies in Europe and North America have examined the relationship between the consumption of impairing drugs and crash risk¹⁴. The table below illustrates the increased risk of drug driving compared to driving without having consumed drugs.

Drug	Relative risk	Risk level
Cannabis	1-3	Slightly increased risk
Cocaine Benzodiazepines Opioids	2-10	Medium increased risk
Amphetamines Combination of drugs	5-30	Highly increased risk
Alcohol > 1.2 g/L	20-200	Extremely increased risk

Risk of death and serious injury while driving

¹³ The World Health Organisation's 2015 review of 66 different studies found that using drugs while driving was associated with an increase in the risk of crash involvement, reporting an increased crash risk for 11 different drug classes or drugs. A more recent (2017) literature review by the European research project SafetyCube of over 80 papers on drugs and driving performance found that a number of the most used legal and illegal drugs have a negative impact on road safety. They increase crash risk, injury severity and fatal crash rate, and they reduce the general ability to drive. When combined with alcohol or other drugs, the negative effects are even larger. See Reference section for additional research material

¹⁴ Schulze, H., Schumacer, M., Urmeew, R., Auerbach, K., Alvarez, J., Bernhoft., I.,Zlender, B. (2012). *Driving under the influence of drugs, alcohol and medicines in Europe: Findings from the DRUID project*. European Monitoring Centre for Drugs and Drug Addiction.

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33. Research on the impairing effects of cannabis is mixed, with some research suggesting it does not increase crash risk, and other research suggesting it substantially increases crash risk. However, based on systematic reviews of the literature, the current consensus of international experts is that cannabis multiplies crash risk by about 1.5 to 2.5¹⁵.
34. The concern here is what, if anything will change, with regards to transport safety once cannabis is legal for recreational use. It is unlikely to cause the long-term targets in the *Vision Zero for Tāmaki Makaurau* to need amending but understanding the effects may shift some of the short-term goals if the change is significant. A lot will hinge on the effectiveness of enhanced NZ Police roadside drug-driving testing and deterrence¹⁶.
35. AT will need conduct an extensive review of existing research in order to make fully informed decisions on any action needed in its current transport safety activities. There will likely be opportunities for AT to be actively involved in research on the effect of legalised cannabis use on transport safety in a New Zealand context and ATs safety team will monitor these opportunities.
36. If a yes result is returned, the Bill will be introduced to Parliament and there will be an opportunity for AT to make a submission in the public consultation. In *Vision Zero for Tāmaki Makaurau Transport Safety Strategy* there is a mandate for this type of response by AT.
37. It is worth noting that currently within the Bill there are three specific sections that may allow AT to be actively involved in influencing key elements of legalised recreational cannabis:
- Consulting on the 5-year plan intended to support the legislations¹⁷.
 - Joining the Cannabis Advisory Committee¹⁸ - Providing independent advice to the authority in charge of recreational cannabis use in NZ.
 - Consulting on the publication of the Harm Reduction Strategy¹⁹.
38. Once the referendum result is known AT will be able to better consider if as an organisation it wants to be involved in the public consultation and any additional means of engagement. Any submission will be produced with the ELT and the Board.
39. **Third party contractors/operators/suppliers-** *How AT will seek assurance from its suppliers that they are managing the risk of cannabis.*

¹⁵ Asbridge M, Hayden JA, Cartwright J. *Acute cannabis consumption and motor vehicle collision risk: systematic review of observational studies and meta-analysis* (2012) and Li MC, Brady JE, DiMaggio CJ, Lusardi AR, Tzong KY, Li G. *Marijuana use and motor vehicle crashes* (2012).

¹⁶ <https://www.transport.govt.nz/multi-modal/keystrategiesandplans/road-safety-strategy/drug-driving/>

¹⁷ Cannabis Legislation and Control Bill Part 2 Cl13

¹⁸ Cannabis Legislation and Control Bill Part 2 Cl17

¹⁹ Cannabis Legislation and Control Bill Part 2 Cl21

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40. The Regional Partnering Agreements under Schedule 7b S12.2(c) requires operators to ensure its employees, agents and sub-contractors comply with a zero-tolerance drugs and alcohol policy and the current supplier code of conduct ask ATs suppliers to have policies, procedures and practices in place that manage the risks of worker impairment from drug or alcohol use
41. Engagement with ATs suppliers will be key to ensure that their drug and alcohol policies manage legalised recreational cannabis use. AT's supply chain will be required to provide assurance that this issue is being managed as a priority in line with contractual expectations. This will likely form part of AT's Contractor Pre-Qualification Scheme and our H&S audit and inspection processes.
42. AT will consider issuing guidance to its suppliers on managing recreational cannabis, depending on the final reading of the Bill and any initial response from our suppliers on the matter. As there is likely to be a minimum 6-month gap between the result of the vote and any legislation coming into force, AT will have time to both fully establish its response and then let its suppliers be aware of its expectations.

Ngā tūraru matua / Key risks and mitigations

Key risk	Mitigation
<p>Strategic – The legalisation of recreational cannabis increases serious road crashes adversely impacting the ability of AT to achieve the DSI targets set in its Road Safety Program Business Case</p>	<p>Work closely with Government partners to ensure that enhanced roadside drug-testing enforcement is delivered in Tamaki Makaurau in 2021 and closely monitor the results with respect to cannabis-related road crashes. Use the results to inform any changes to the current Vision Zero for Tamaki Makaurau strategies and activities.</p>
<p>Operational – AT does not have an approach to drugs and alcohol that is suitable to address the risks associated with legalisation of recreational cannabis.</p>	<p>Review the current Drug and Alcohol Policy and supporting documents.</p> <p>Prepare a framework to a possible response to legalised recreational cannabis for both AT employees and its supply chain.</p> <p>Revise existing AT-funded community-based Repeat Drink Driver programmes to include drug-related driving prevention interventions, including cannabis.</p>

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Ngā ritenga-ā-pūtea me ngā rauemi / Financial and resource impacts

43. Resources for review and development of Drug and Alcohol Policy and associated supporting documents;

44. Resources for research review and any additional research into the effects of the referendum.

Ngā whaiwhakaaro ō te taiao me te panonitanga o te āhuarangi / Environment and climate change considerations

45. There are no direct environmental and climate change considerations related to the cannabis referendum identified at this time.

Ngā reo o mana whenua rātou ko ngā mema pooti, ko ngā roopu kei raro i te maru o te Kaunihera, ko ngā hāpori katoa / Voice of mana whenua, elected members, Council Controlled Organisations, customer and community

46. Research from the Ministry of Health²⁰ has suggested that cannabis use is two times more prevalent in Maori and lower socio-economic communities and as such a yes return may see an increase in cannabis use. International research has shown an increase in traffic incidents and as such it can be assumed that Maori and lower socio-economic communities will be significantly impacted by the referendum. This may have a knock-on effect on AT partnerships and the strategies for transport safety.

Ngā whaiwhakaaro haumaruru me ngā whaiwhakaaro hauora / Health, safety and wellbeing considerations

47. A reviewed Drug and Alcohol Policy will provide clear direction to AT staff and managers on how to manage any risks associated with recreational cannabis use.

²⁰ 2018/19: New Zealand Health Survey – Ministry for Healthy

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Ā muri ake nei / Next steps

48. The Drug and Alcohol Policy for AT is currently under review in line within the normal policy review cycle. A paper outlining the consultation process on this Tier 1 policy will be issued to the ELT and the Board. Additional consideration will be given to legalised cannabis for recreational use during this process.
49. The lead up to the referendum and poll tracking will be actively monitored.
50. Depending on the result of the referendum any actions proposed to address the result will be brought to the committee to be considered.

Ngā whakapiringa / Attachments

Attachment number	Description
1	Business Leaders H&S Forum - Member Advisory - Cannabis Referendum – Impairment risks from drugs and alcohol
2	Draft Notes on Research to Date - Cannabis Legislation and Control Bill
3	ICBC Legalisation of Cannabis Referendum Resource
4	NZ Drug Foundation - Taking-control-of- cannabis
5	Option for Cannabis Policy in NZ – UoA
6	Cannabis Legislation and Control Bill – Draft
7	Workplace Strategies: Risk of Impairment from cannabis – Canadian Centre for Occupational Health and Safety
8	MOT – Enhanced Drug Driver Testing https://www.transport.govt.nz/multi-modal/keystrategiesandplans/road-safety-strategy/drug-driving/

He Tohutoro / References

M. Asbridge, J. Hayden & J. Cartwright, “Acute Cannabis consumption and motor vehicle collision risk: A systematic review of observational studies and meta-analysis” (2012) 344 British Medical Journal e536.)

M. Li et al., “Marijuana Use and Motor Vehicle Crashes” (2012) 34 Epidemiologic Reviews 65, at 69

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D. Beirness & E Beasley & P. Boase. A comparison of drug use by fatally-injured drivers and drivers at risk. Canadian Centre on Substance Use and Addiction, and Transport Canada. Proceedings of the 20th International Conference on Alcohol, Drugs and Traffic Safety, 2013

S. Salomonsen-Sautel et al., “Trends in fatal motor vehicle crashes before and after marijuana commercialization in Colorado” (2014) 140 Drug and Alcohol Dependence 137, at 140. The authors also reported that there were no significant changes in the percentage of alcohol-impaired drivers in fatal crashes in either Colorado or the Non-Medical Marijuana States.


B. Tefft, L. Arnold & J. Grabowski, “Prevalence of Marijuana Involvement in Fatal Crashes: Washington”, 2010-2014 (Washington, DC: AAA Foundation for Traffic Safety, 2016), at 1

Eichelberger, A.H., 2019. Marijuana use and driving in Washington State: Risk perceptions and behaviors before and after implementation of retail sales. *Traffic injury prevention*, 20(1), pp.23-29.

Schulze, H., Schumacer, M., Urmeew, R., Auerbach, K., Alvarez, J., Bernhoft., I.,Zlender, B. (2012). Driving under the influence of drugs, alcohol and medicines in Europe: Findings from the DRUID project. European Monitoring Centre for Drugs and Drug Addiction.

Asbridge M, Hayden JA, Cartwright J. Acute cannabis consumption and motor vehicle collision risk: systematic review of observational studies and meta-analysis (2012) and Li MC, Brady JE, DiMaggio CJ, Lusardi AR, Tzong KY, Li G. Marijuana use and motor vehicle crashes (2012).

Te pou whenua tuhinga / Document ownership

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